

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: [REDACTED] Brown	Team: Team # 1	CCRB Case #: 201404671	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tue, 04/08/2014 12:30 PM	Location of Incident: [REDACTED] 40th Street; 101st Precinct Stationhouse		Precinct: 101	S.O.L. Expires: 10/08/2015	
Date/Time CV Reported Wed, 05/14/2014 9:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/14/2014 9:47 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]
2. An individual	Victim	

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Norcott	02153	940514	101 PCT
2. [REDACTED]	[REDACTED]	[REDACTED]	101 PCT
3. Officers			101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM [REDACTED]	[REDACTED]	[REDACTED]	101 PCT
2. SGT [REDACTED]	[REDACTED]	[REDACTED]	101 PCT
3. SGT [REDACTED]	[REDACTED]	[REDACTED]	101 PCT

Officer(s)	Allegation	Investigator Recommendation
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D . POM Patrick Norcott	Abuse of Authority: PO Patrick Norcott stopped [REDACTED]	D . Substantiated
E . POM Patrick Norcott	Abuse of Authority: PO Patrick Norcott frisked [REDACTED]	E . Substantiated
F . POM Patrick Norcott	Abuse of Authority: PO Patrick Norcott searched [REDACTED]	F . Unsubstantiated

Case Summary

On April 8, 2014, at approximately 11:45 am, Brian [REDACTED] allegedly saw an unidentified individual stopped and frisked in front of [REDACTED] 40th Street in Queens by Lt. [REDACTED] PO Patrick Norcott, and PO [REDACTED] of the 101st Precinct (**Allegations A and B**). Forty-five minutes later, at approximately 12:30 pm, PO Norcott and Lt. [REDACTED] stopped Mr. [REDACTED] in front of [REDACTED] 40th Street (**Allegations C and D**). Upon stopping Mr. [REDACTED] PO Norcott allegedly frisked Mr. [REDACTED] jacket pockets, pants pockets, and legs (**Allegation E**). After frisking Mr. [REDACTED] jacket pockets, PO Norcott allegedly placed his hands inside of the jacket pockets (**Allegation F**). Mr. [REDACTED] attempted to film the officers' badge numbers on his cell phone and Lt. [REDACTED] reached for his phone and Mr. [REDACTED] pulled it away (**Allegation G**). Mr. [REDACTED] complained about the frisk and search and one of the officers placed him into handcuffs. Lt. [REDACTED] allegedly said, "Since you're being a dick, we have to take you down the Precinct to identify you," or "Since you don't wanna give your name, we gotta take you in," (**Allegation H**). Lt. [REDACTED] also allegedly said, "That's what you get for being a dick," (**Allegation H**). In response to Mr. [REDACTED] complaints about the frisk and search, a small crowd formed, and Lt. [REDACTED] allegedly told this crowd something along the lines of, "Don't mind him, he's being a dick," or "Don't pay attention to this dick, he's just making a show," (**Allegation H**). Mr. [REDACTED] was then brought over to a police vehicle and after Mr. [REDACTED] sat down, Lt. [REDACTED] asked him something like, "What the fuck are you doing?" (**Allegation H**) and punched him once in the forehead (**Allegation I**). On the ride to the stationhouse, Lt. [REDACTED] said, "You're a dick," "Suck my dick," "You wanna hit the ghetto lottery," and "Since you wanna be a dick, now we gotta take you to the Precinct," (**Allegation H**). Lt. [REDACTED] also allegedly cocked his fist back in a gesture that made it seem like he was about to punch Mr. [REDACTED] (**Allegation J**). Outside of the stationhouse, Mr. [REDACTED] told Lt. [REDACTED] that he was stuck and could not exit the vehicle and Lt. [REDACTED] allegedly responded, "Oh you wanna be a dick? Now you gotta get out on your own for being a dick," (**Allegation H**). Inside the stationhouse and in front of the desk, Lt. [REDACTED] allegedly told Sgt. [REDACTED] "This is the biggest dick I've ever met," "This is the biggest dick in the world," and called Mr. [REDACTED] a "fucking dick," (**Allegation H**). Lt. [REDACTED] then told Sgt. [REDACTED] "All these hoodlums just wanna hit the ghetto lottery," (**Allegation H**). A voided arrest for disorderly conduct, unreasonable noise was prepared for Mr. [REDACTED] (**Allegation K**) and as he was leaving the stationhouse Lt. [REDACTED] told officers at the stationhouse that Mr. [REDACTED] was a "fucking dick," (**Allegation H**). Mr. [REDACTED] was released without a summons or a Desk Appearance Ticket (complaint encl. B1-2, CCRB statement encl. B3-7). The officers' initial approach and early conversation with Mr. [REDACTED] were video-recorded by Mr. [REDACTED] on his cell phone (encl. B11-12).

Mediation, Notice of Claim, and Criminal Histories

This complaint was not eligible for mediation. On July 3, 2014, Mr. [REDACTED] filed a Notice of Claim with the Comptroller's Office seeking damages for physical injury, pain and suffering, discomfort, and mental anguish due to false arrest and imprisonment, which resulted in cruel and inhuman treatment, shame, humiliation, and injury to his reputation. Mr. [REDACTED] is seeking \$250,000 as redress (encl. E1-4). Since October of 2010, Mr. [REDACTED] has pled guilty to disorderly conduct five times, trespassing twice, criminal trespass once, engaging in commercial activity in the subway once, and possession of synthetic cannabinoids once. He has been variously sentenced to time served, three days of community service, 45 days' imprisonment, conditionally discharged, and had an order of protection issued against him (encl. E5-56).

Civilian and Officer CCRB Histories

- This is the second CCRB complaint filed by [REDACTED] (encl. A8). His first complaint,

- CCRB case number 201400074, was closed as complainant uncooperative.
- Lt. [REDACTED] has been a member of service for nine years and there are three substantiated allegations against him (encl. A6-7). In CCRB case number 200802601, one of the three allegations substantiated against Lt. [REDACTED] included a search of person and he was disciplined with instructions; the other two substantiated allegations were a vehicle stop and a vehicle search.
- PO Norcott has been a member of service for nine years and there are no substantiated allegations against him (encl. A5).

Findings and Recommendations

Explanation of Subject Officer Identification

Mr. [REDACTED] alleged that before he was stopped he observed PO Norcott, Lt. [REDACTED] and PO [REDACTED] stop his friend (whom he knew only as “DD”). All of the officers interviewed denied stopping anyone before stopping Mr. [REDACTED]. Because Lt. [REDACTED] was the highest ranking officer to allegedly stop this individual, Allegation A has been pled against Lt. [REDACTED].

After this individual was stopped, Mr. [REDACTED] stated that the officers frisked him. Because Mr. [REDACTED] did not specify which of the three officers frisked this individual, the investigation could not identify the subject of the allegation. Therefore, Allegation B has been pled against “An officer” from the 101st Precinct.

Lt. [REDACTED] and PO Norcott acknowledged interacting with Mr. [REDACTED] and Mr. [REDACTED] provided accurate descriptions of these officers. Therefore, Allegations C through K have been variously pled against Lt. [REDACTED] and PO Norcott.

- **Allegation A) Abuse of Authority: Lt. [REDACTED] [REDACTED] stopped an individual.**
- **Allegation B) Abuse of Authority: Officers frisked an individual.**

Mr. [REDACTED] stated that about 45 minutes before he was stopped, he saw an individual whom he only knew as “DD” stopped by PO Norcott, Lt. [REDACTED] and PO [REDACTED] and that the officers subsequently frisked him.

PO Norcott, Lt. [REDACTED] and PO [REDACTED] did not have any notation of a stop in their memo books and the Stop, Question, and Frisk Log did not record any other stops made in the vicinity by the officers (encl. D5, F1). Furthermore, a conversation with the NYCHA Law Department on May 22, 2014 confirmed that there are no surveillance cameras at the Beach 41st Street Houses (encl. F4). Because Mr. [REDACTED] could not provide any more specific identifying information for DD, and because police and NYCHA documentation could not provide any record of the alleged stop, the investigation could not determine the victim’s identity. Therefore, it is recommended that Allegations A and B be closed as **victim unidentified**.

- **Allegation C) Abuse of Authority: Lt. [REDACTED] [REDACTED] stopped [REDACTED] [REDACTED]**
- **Allegation D) Abuse of Authority: PO Patrick Norcott stopped [REDACTED] [REDACTED]**

Mr. [REDACTED] stated that he had been standing in front of [REDACTED] 40th Street for five to ten minutes with his headphones in his ears, his cell phone in his hand, and nothing in his pockets when Lt. [REDACTED] PO Norcott, and PO [REDACTED] approached him. Later in his statement, Mr. [REDACTED] acknowledged that he had his glasses on him at this time and that once he was in the police vehicle, he realized that his glasses were in his pocket (encl. B3-9). The cell phone video that Mr. [REDACTED] recorded of the incident confirms that Lt. [REDACTED] PO Norcott, and PO [REDACTED] approached Mr. [REDACTED] and that PO Norcott spoke with Mr. [REDACTED] for over 30 seconds before he leaned in to frisk him (encl. B11-12).

PO Norcott stated that from approximately 50 feet away he observed a large, straight, and rigid bulge in Mr. [REDACTED] front left pants pocket, which he suspected might have been caused by

the barrel of a gun. PO Norcott also wanted to establish whether Mr. [REDACTED] was a resident of the building in front of which he was standing and stated that nothing aside from the presence of the bulge made him suspect that Mr. [REDACTED] had a firearm on him. PO Norcott also suspected Mr. [REDACTED] of trespassing (encl.C1-16). The Stop, Question, and Frisk Report that PO Norcott prepared in relation to the stop confirmed that the only circumstance that led to the stop was a “suspicious bulge/ object” that turned out to be an eyeglasses case in Mr. [REDACTED] left pocket (encl. C5-6, F1). The report also noted that the period of observation of Mr. [REDACTED] lasted one minute, and that there was a high incidence of the suspected crime in the area, which PO Norcott explained was noted because there had been numerous shootings and gun arrests at the location.

Lt. [REDACTED] also stated that the reason for the stop was that he observed a large bulge in Mr. [REDACTED] left front pants pocket (Lt. [REDACTED] could not provide any further description of the bulge). This bulge, plus the gun prone nature of the area, led Lt. [REDACTED] to believe that bulge was a firearm. Lt. [REDACTED] and PO Norcott approached Mr. [REDACTED] in order investigate the origin of the bulge and to determine whether or not he lived at [REDACTED] 40th Street because he also suspected him of trespassing (encl. C17-25).

PO [REDACTED] did not recall why Mr. [REDACTED] was stopped, though he noted in his memo book that he had a suspicious bulge in his pants pocket (encl. C26-33).

Patrol Guide Procedure 212-11 requires that officers reasonably suspect a civilian has committed, is committing, or is about to commit a crime in order to stop him (encl. i-iv). People v. Gerard 94 A.D.3d 592 (App. Div. 3d Dep’t. 2012) found that a defendant’s weighted-down pocket in a “gun-prone” location in combination with several other factors provides officers with only a founded suspicion that criminality is afoot. People v. Holmes, 81 N.Y.2d 1056 (1993) held that observing an individual in a “high crime area” with an unidentified bulge provided officers with only an objective credible reason to approach the defendant, not to stop him (encl. v-vi, vii-ix).

The explanations that PO Norcott and Lt. [REDACTED] provided for stopping Mr. [REDACTED] were that he might not have been a resident of the building in front of which he was standing and that after one minute of observation (according to the UF250), the officers noticed that he had a large bulge in one of his pockets that they suspected was a firearm. Being outside of a NYCHA building, however is not a potential trespassing violation and the mere presence of a bulge in Mr. [REDACTED] pants pocket absent more particularized information about the bulge or Mr. [REDACTED] behavior is insufficient to provide the officers with reasonable suspicion that he is engaged in criminal activity. Even Lt. [REDACTED] and PO Norcott’s assertion that the area is a gun prone location in combination with the bulge does not amount to reasonable suspicion that Mr. [REDACTED] was armed and thus engaged in criminal activity. Because PO Norcott and Lt. [REDACTED] did not have reasonable suspicion to stop Mr. [REDACTED] it is recommended that Allegations C and D be closed as **substantiated**.

• **Allegation E) Abuse of Authority: PO Patrick Norcott frisked [REDACTED] [REDACTED]**

Mr. [REDACTED] stated that soon after Lt. [REDACTED] PO Norcott, and PO [REDACTED] approached him, PO Norcott asked him a series of questions and then asked him if he had any weapons on him. After Mr. [REDACTED] said that he did not, PO Norcott, frisked Mr. [REDACTED] jacket pockets, his pants pockets, and then his legs all the way down to his ankles. The video footage shows PO Norcott leaning into Mr. [REDACTED] after he denied that he had any weapons on him. The camera angle tilts downward and shows PO Norcott touching the outside of Mr. [REDACTED] left pants pocket with his right hand while his left arm is extended around the left side of Mr. [REDACTED] body (though the camera does not show what, if any, contact is made by PO Norcott’s left hand).

PO Norcott stated that he frisked Mr. [REDACTED] left front pants pocket and was not sure if he frisked Mr. [REDACTED] other pants pocket. PO Norcott stated that he frisked Mr. [REDACTED] to determine

what the bulge in his pants pocket was because he believed it was a firearm and that aside from the presence of the bulge, there was nothing else that made PO Norcott believe that Mr. [REDACTED] had a firearm. The Stop, Question, and Frisk Report also noted that PO Norcott frisked Mr. [REDACTED] and that this frisk determined that the observed bulge was simply an eyeglass case.

Lt. [REDACTED] did not recall Mr. [REDACTED] being frisked at any time before he was placed into handcuffs, though he did state that Mr. [REDACTED] made a sudden reaching movement to his left pants pocket (the location of the bulge) soon after the officers approached. PO Norcott did not state that Mr. [REDACTED] made this reaching motion and PO [REDACTED] did not recall Mr. [REDACTED] ever being frisked during the incident.

People v. De Bour 40 N.Y.2d 210 (1976) requires that officers reasonably suspect that a civilian is armed before they frisk him (encl. x-xx). People v. Hill 262 A.D.2d 870 (App. Div. 3d Dep't. 1999) holds that a pocket bulge unto itself is not enough to arouse suspicion that a suspect is armed (encl. xxi-xxii).

Despite the fact that the frisk that Mr. [REDACTED] alleged is of a greater extent than the one that PO Norcott acknowledged performing, even the limited frisk of Mr. [REDACTED] left front pants pocket that contained the bulge falls outside of departmental procedure. Even though Lt. [REDACTED] stated that Mr. [REDACTED] gestured towards the bulge soon after the officers approached, PO Norcott's and PO [REDACTED] statements did not support this. Absent additional factors that suggested to PO Norcott that the eyeglasses case might have been a weapon, he did not have the necessary reasonable suspicion that the bulge was a weapon and not an innocuous hard object (as the frisk determined). Therefore, it is recommended that Allegation E be closed as **substantiated**.

• **Allegation F) Abuse of Authority: PO Patrick Norcott searched [REDACTED] [REDACTED]**

Mr. [REDACTED] alleged that once PO Norcott frisked the exterior of his jacket pockets, PO Norcott placed his hands inside of his pockets. The video of the incident recorded a dialogue between PO Norcott and Mr. [REDACTED] in which Mr. [REDACTED] told PO Norcott, "No, I don't give you consent to search me," as soon as PO Norcott leaned towards him. PO Norcott replied, "I'm not searching you," and Mr. [REDACTED] asked, "Are you sure that's not searching me?" PO Norcott said, "If I went in your pockets that would be searching you," and Lt. [REDACTED] also said, "No, that's not a search." Mr. [REDACTED] asked again why he was being searched and PO Norcott said, "I didn't search you." Mr. [REDACTED] replied, "You just touched my pockets - that's searching me," and PO Norcott said, "I just frisked you to make sure you had no weapons." During this conversation, the video shows PO Norcott frisking Mr. [REDACTED] left front pants pocket, but does not reveal PO Norcott placing his hands into his pockets.

PO Norcott and Lt. [REDACTED] both denied that PO Norcott placed his hands into Mr. [REDACTED] pockets before Mr. [REDACTED] was placed into handcuffs. PO [REDACTED] did not recall Mr. [REDACTED] ever being searched on the scene.

Because the officers' statements and Mr. [REDACTED] statement are inconsistent on whether PO Norcott searched Mr. [REDACTED] before his arrest and because the video does not clearly confirm or refute the allegation (despite the discussion during Mr. [REDACTED] frisk that parses the legal definition of a search), the investigation could not determine whether PO Norcott placed his hand inside of Mr. [REDACTED] jacket pocket. Therefore, it is recommended that Allegation F be closed as **unsubstantiated**.

• **Allegation G) Abuse of Authority: Lt. [REDACTED] [REDACTED] interfered with [REDACTED] [REDACTED] ability to record an incident.**

Mr. [REDACTED] alleged that after the officers approached him he attempted to film their shields and nameplates and, in response, Lt. [REDACTED] grabbed for his phone. Mr. [REDACTED] pulled the phone away from Lt. [REDACTED] disabled the recording, and then handed it off to a friend who was

standing nearby.

The video clearly shows that Lt. [REDACTED] grabbed at Mr. [REDACTED] phone two different times and the first time Mr. [REDACTED] asked him, “Why you grabbing my phone for?” Approximately 40 seconds later, Mr. [REDACTED] brought the phone down next to his side and said, “Don’t touch my phone.” Seconds after that, the recording abruptly ended.

Patrol Guide Procedure 208-03 states that it is lawful for individuals to videotape police incidents (encl. xxiii-xxxv).

Because the video recording clearly shows that Lt. [REDACTED] attempted to take Mr. [REDACTED] phone away from him (or at the very least, cover the lens) on two different occasions, the investigation determined that Lt. [REDACTED] interfered with Mr. [REDACTED] recording attempts. Therefore, it is recommended that Allegation G be closed as **substantiated**.

- **Allegation H) Discourtesy: Lt. [REDACTED] spoke discourteously to [REDACTED]**
- **Allegation I) Force: Lt. [REDACTED] used physical force against [REDACTED]**
- **Allegation J) Abuse of Authority: Lt. [REDACTED] threatened [REDACTED] with the use of force.**

Mr. [REDACTED] alleged that Lt. [REDACTED] made numerous discourteous remarks throughout the incident, in addition to alleging that Lt. [REDACTED] punched him in the forehead and then later, cocked his fist as if he was going to punch him. Mr. [REDACTED] stated that during the handcuffing process, Lt. [REDACTED] said to Mr. [REDACTED] “Since you’re being a dick, we have to take you down to the precinct to identify you.” Later in his statement, Mr. [REDACTED] modified this statement to, “Since you don’t wanna give your name, we gotta take you in.” Lt. [REDACTED] also said during the handcuffing process, “That’s what you get for being a dick,” and told the assembled crowd, something along the lines of, “Don’t mind him, he’s being a dick,” or, “Don’t pay attention to this dick, he’s just making a show.”

Once Mr. [REDACTED] was placed into the police vehicle and while the door was still open, he removed his legs from the vehicle and Lt. [REDACTED] asked, “What the fuck are you doing?” and punched Mr. [REDACTED] in the middle of the forehead with his left hand. Mr. [REDACTED] could not recall if those were Lt. [REDACTED] exact words, but stated that it was that “type of language.”

On the ride to the stationhouse, Lt. [REDACTED] told him, “You’re a dick,” “Suck my dick,” and, “You just want to hit the ghetto lottery.” Then, Lt. [REDACTED] also turned to Mr. [REDACTED] and cocked his fist in a gesture that made it seem that he was about to punch Mr. [REDACTED] though he did not punch him. Then Lt. [REDACTED] adjusted his seat so that it pressed against Mr. [REDACTED] knees. Also on the ride to the stationhouse, an unspecified officer told Mr. [REDACTED] “Since you wanna be a dick, now we gotta take you to the Precinct.”

At the stationhouse, when Mr. [REDACTED] was exiting the vehicle, he said that he was stuck and Lt. [REDACTED] replied, “Oh you wanna be a dick? Now you gotta get out on your own for being a dick.”

In front of the desk at the stationhouse, Lt. [REDACTED] told Sgt. [REDACTED] “This is the biggest dick I’ve ever met,” “This is the biggest dick in the world,” and called Mr. [REDACTED] a “fucking dick.” Then Lt. [REDACTED] told Sgt. [REDACTED] “All these hoodlums just wanna hit the ghetto lottery.” As Mr. [REDACTED] was leaving the stationhouse, Lt. [REDACTED] told other officers that Mr. [REDACTED] could not describe that Mr. [REDACTED] was a “fucking dick.” Mr. [REDACTED] did not receive any medical treatment after his arrest and did not allege sustaining any visible injuries.

All of the officers interviewed denied these allegations. [REDACTED] an uncooperative witness who only provided a phone statement and saw Mr. [REDACTED] handcuffing, did not hear any profanity used towards Mr. [REDACTED] though also stated that she was not close enough to hear (encl. B10, F2). Sgt. [REDACTED] did not recall Lt. [REDACTED] making the alleged remarks when Mr. [REDACTED] was brought in front of the desk (encl. C34-37). The video provided by Mr. [REDACTED] also

did not capture any of the discourtesies. Without corroboration for these allegations, the investigation could not determine whether Lt. [REDACTED] ever spoke discourteously, punched Mr. [REDACTED] in the forehead, or cocked his fist at him. Therefore, it is recommended that Allegations H, I, and J be closed as **unsubstantiated**.

- **Allegation K) Abuse of Authority: Lt. [REDACTED] arrested [REDACTED]**

It is undisputed that Mr. [REDACTED] was standing in front of [REDACTED] 20th Street until PO Norcott, Lt. [REDACTED] and PO [REDACTED] approached him and started to question him. It is also undisputed that after the officers approached him, Mr. [REDACTED] started speaking loudly and refused to place his arms behind his back. Eventually the officers placed him into handcuffs and brought him back to the stationhouse where an arrest for disorderly conduct, subsection 5, unreasonable noise, was generated and then voided. What led to this arrest and subsequent voiding, however, is in dispute.

PO Norcott stated that Mr. [REDACTED] avoidance of a frisk, his yelling, and subsequent unwillingness to be handcuffed caused a crowd to form. As a result of Mr. [REDACTED] overall “boisterousness,” Lt. [REDACTED] instructed PO Norcott to place Mr. [REDACTED] under arrest.

Lt. [REDACTED] provided a different explanation for Mr. [REDACTED] handcuffing and removal to the stationhouse. Lt. [REDACTED] stated that Mr. [REDACTED] moved his hand into his pocket and that Lt. [REDACTED] grabbed it. In response, Mr. [REDACTED] pulled his hand away from Lt. [REDACTED] and started to flail his arms, which made Lt. [REDACTED] fear for his safety. As a result, Lt. [REDACTED] and PO Norcott placed him into handcuffs. At this point, Lt. [REDACTED] stated that he did not intend to issue Mr. [REDACTED] a summons because he had not committed any summonsable offenses. But because Mr. [REDACTED] did not have any identification on him, Lt. [REDACTED] needed to bring him back to the stationhouse to determine whether he had any open warrants and to fill out a Stop, Question, and Frisk Report. Lt. [REDACTED] also stated that because Mr. [REDACTED] was behaving violently, Lt. [REDACTED] could not conduct his investigation and wanted to bring Mr. [REDACTED] to the stationhouse’s “controlled environment.” Lt. [REDACTED] acknowledged that a Stop, Question, and Frisk Report can be filled out without an individual’s name being written on it. Lt. [REDACTED] further stated that Mr. [REDACTED] was never under arrest and that the arrest report was generated as a voided arrest (and not voided after it was generated); the arrest report only listed Mr. [REDACTED] charge as disorderly conduct because an arrest report cannot be generated without a charge.

PO [REDACTED] did not know why Mr. [REDACTED] was arrested.

The video recording of the incident reveals that Mr. [REDACTED] did raise his voice above a normal conversational volume at several points while he was complaining to the officers.

The Command Log entry for Mr. [REDACTED] arrest noted that there was no probable cause to arrest Mr. [REDACTED] (encl. D6, F1).

An officer may arrest an individual for an offense when he or she has reasonable cause to believe that such person committed an offense in their presence, N.Y. C.P.L. §140.10 (1)(a) (encl. xxxvi-xxxix). A person commits disorderly conduct when with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he makes unreasonable noise, N.Y.S. Penal Law, §240.20 (2) (encl. xl). The disorderly conduct statute is aimed at conduct which incites or risks inciting “a breach of the peace” or “public disturbance” and applies to situations which carry beyond individual disputants and become a public concern, People v. Square, 20 Misc.3d 1126A (N.Y. Cty. Crim. Ct. 2008) (encl. xli-xlv). Furthermore, “The mere expression that one feels aggrieved by the police – even when uttered in a loud voice – cannot constitute an offense.”

PO Norcott and Lt. [REDACTED] did not have reasonable cause to believe that Mr. [REDACTED] had been in violation of disorderly conduct. That Lt. [REDACTED] voided Mr. [REDACTED] arrest and noted in the Command Log that there was no probable cause to arrest him is a clear indication that Lt. [REDACTED]

recognized that he did not have reasonable cause to arrest Mr. [REDACTED] Lt. [REDACTED] explanations for why Mr. [REDACTED] was brought back to the stationhouse (to identify him for a warrant check, to identify him to prepare a Stop, Question, and Frisk Report, and to conduct his investigation in a “controlled environment”), are all insufficient: Warrant checks are not required to be performed on every individual that officers stop; Stop, Question, and Frisk Reports do not need to bear a civilian’s name (as Lt. [REDACTED] acknowledged); and there is no further investigation to be done back at the stationhouse for an incident that did not constitute an offense. Because Lt. [REDACTED] arrested Mr. [REDACTED] without the necessary reasonable cause to do so, it is recommended that Allegation K be closed as **substantiated**.

Team: 1

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date